Supreme Court, U.S.
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92-322

NO. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1992

VENOLA WALTON,
PLAINTIFF - APPELLANT - PETITIONER

-V-

RAVI BATRA, ESQ.
DEFENDANT- APPELLEE - RESPONDENT

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FORTHE SECOND CIRCUIT PETITION FOR WRIT OF CERTIORARI

VENOLA WALTON,
PLAINTIFF- APPELLANT-PETITIONER
539 W. 148 Street
New York, N.Y. 10031
(212) 690-5198

Petitioner,
Representing myself

I

QUESTION PRESENTED

Whether Chief Judge Oakes have a personal bias and prejudice in this proceedings. He knew the genuine facts and issues it presents because he affirmed in the original case 76- Civ. 3208 and should not have set in this appeal, from the District Court in N.Y. in No. 91-9170.

Was the Hon. Chief Judge James L. Oakes one of the Judges sitting in the original appeal of 76 Civ. 3208 (JMC) from the district court in New York where they engaged in conspiracy, fraud and discriminatory practice and awarded this final Judgment against me and foreclosed adjudication on my case in the courts, and there were genuine issues of material fact to be tried. And did Judge Oakes affirm that judgment as a circuit judge of this court in case No. 78-6017.

Why Chief Judge Oakes allow himself to sit on this proceedings against Batra in case no. 91-9170. He has a personal bias and prejudice because of his personal knowledge of the facts and issues,the evidence presented in the case and participated or wrote the opinion, order and that should render this courts order null and void and grant the Appellant the relief prayed for in both cases: 76-Civ. 3208 (JMC), and No. 91-9170.

Did the cruel, biases, prejudice and unfair discriminatory practice against me in the courts for 16 years made it necessary to seek relief through the Congress of the United States. Batra knowingly agreed to file a private bill in Congress for Redress, to correct the wrong doings by the Government, Small Business Administration and the United States District Court in New York. Batra violated his agreement, practiced fraud and deception against me. He conspired with the Government, the S.B. A., and the Courts to destroy me and my case.

Did the Defendant have a $5,000.00 retainer fee, complete case file, manuscript, inventions etc.from the plaintiff, and have refused to file the private bill in Congress or return to me my money and all other property, and did the District court dismissed my complaint before hearing the facts and issues. Denied me due process of the laws to recover my property and damages for 16 years of wrong doings in the courts.

Did Batra know the government and the court violated my Constitutional Guaranteed Rights, the right to a trial to defend and protect my property and business? Did they violated constitutional laws and granted a final judgment against me on a summary judgment motion, and foreclosed adjudication on my case in the courts, he knew my case have genuine issues of material facts to be tried. Attorney Batra know it was for these reasons and more that he was retained to file the private bill in the Congress of the United States for Redress, Equitable Relief.

Did Attorney Batra builted fraud and deception in the retainer agreement to extort money from me and "my family?" He falsely accused me of suggesting to amend our agreement and possible breach. He falsely claimed that he has spent almost 70 hours reviewing my documents—for a total of $29,000 more I owe plus the $5,000 retainer fee totals $34,000. See his and my letters in my appendices.

Was Batra retained to correct the wrong doings done to me by the Government, Small Business Administration, and the Courts for 16 years in Case No. 76 Civ.3208 (JMC)?

LIST OF PARTIES

The parties to this appeal are as follows:

1 The Petitioner is Venola Walton the Plaintiff Appellant, Petitioner. appearing Pro se in this proceeding whose name and address appears on the front of this petition

2 The Respondent is Ravi Batra, Esq. Defendant Appellee
142 Lexington Avenue New York, N.Y. 10016 (212) 545 1993
Representing himself

3 U.S. District Court Southern District of N.Y.
40 Foley Square. New York, N.Y. 10007 Civ Action No.- 90 7105 (CSH) and No 76 Civ. 3208 (JMC)

4 U.S. Court of Appeals Second Circuit, U.S. Court House
Foley Square New York, N.Y. 10007 Appeal No 91 9170'

5 Mr. Robert B. Fisk U.S. Attorney for Southern District in N.Y.
U.S. Courthouse Annex 1 St Andrews Plaza, New York, N.Y. 10007

6 The U.S. Government The Congress of the U.S Attorney for the Defendants, Molly D Current. Assistant U.S. Attorney Judiciary Center Building 555 4th Street N.W. Room 4209
Washington D.C. 20001 (202) 272 9173

7. U.S. Attorney General DepartmenT of Justice
10 Constitution Ave. N.W. Washington D.C. 20530

8 Mr Stanley S Harris U.S. Attorney for the District of Columbia
Court Building John Marshall Pl Room 2800
Washington D.C. 2

9 Mr. John Sharp The Small Business Administration 1441 L Street N.W. Room 700 Washington D.C. 20416

10 Rex E. Lee Solicitor General Department of Justice
Washington D.C. 20430

TABLE OF CONTENTS

Page

Questions Presented I

List of Parties III

Table of Contents IV

Table of Authorities V

Opinions Below 4

Jurisdiction, Statutes Involved 7

Statements of the Case 9

Reasons for Granting Writ 13

Conclusion 18

APPENDICES:

U. S. Court of Appeals for the Second Circuit Summary Order A19

U.S. District Court, Southern District of New York Memorandom Opinion and Order A20

U.S. District Court, Southern District of New York, Memorandom Decision, Findings of Fact Conclusions of Law A22

U.S. District Court for the District of Columbia, U.S. Government, The Congress of the U.S., Memorandom Case was tampered with A25

U.S. Court of Appeals for the D.C. Curcuit A30

Summary of Court Proceedings and Opinions A32

TABLE OF AUTHORITIES

Federal Civil Rights Act (42 USC 1985) Chapter 7

Federal Tort Claims Act Title 4, Sec. 403 (b)

Moore's Federal Practive Vol. 6, Part 2, Rule 56-25
An Act of (Ca3d Congress 1974) 490 F2d 1360-1371 n6

U.S. Code Anontated, Title 28,Federal Rules of Civil procedure, Rule 15 (a), (b), (c)

USC 701. Title 5 Applications. Definitions

USC Annotated, Title 15, 634 Administrative powers

U.S. Code Annotated, Title 28, Judiciary-Judicial Procedure 2281-2500, Sec. 2403 p. 389

Rel. (16-1971) (Moore F.P.) page 510 35 Hazel and Atlas Glass Co. v. Hartford Empire 1944 322 U.S. 238, 246

Prosser on Torts at 950-95 (3d ed. 1964)

*42 U.S.C. 290l, 2003, 2905, and 2906; Economic Opportunity Act of 1964, as amended, sections 401-404; Public Law 88-452 as amended 78 Stat. 526.

28 U.S.C. 2675
28 U.S.C. 1346 (b)
28 U.S.C. 1252
28 U.S.C. 1254

The 1st., 7th., and 14th Amendments to the Constitution of theU.S.
This Case raises questions of grave public importance, and is reviewable under the Jurisdiction of 262 of the Judicial Code, Title 28 U.S.C. 377

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1992

VENOLA WALTON,
PLAINTIFF, APPELLANT, PETITIONER

V.

RAVI BATRA, ESQ.
DEFENDANT, APPELLEE, RESPONDENT

Appeal Ct. DKt. No. 91 Civ. 9170, Dist. Ct. No. 90 Civ. 7105 (CSH), Orig. Case No. 76 Civ. 3208 (JMC) N.Y. D. Ct., D.C. Dist. Ct. No. 89 - Civ. 0737 (JGP), D.C. Circuit Ct. No. 91-5351

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Venola Walton, Plaintiff, Appellant, Petitioner, in this suit respectfully prays that a Writ of Certiorari issue to review the summary order rendered by the United States Court of Appeals for the Second Circuit, entered on April 10, 1992 appealing from the United States District Court for the Southern District of New York, that court order entered August 29,1991, affirmed the district court's dismissal of my complaint for lack of subject matter jurisdiction without prejudices, entered May 22, 1992. A motion for reconsideration was filed May 7, 1992, was denied May 22, 1992. I petition for rehearing, and suggestion the rehearing be en banc On July 3, 1992, wasn't allowed. returned to me on July 9, 1992 with a note stating "I am only allowed to file one motion for rehearing."

The court has jurisdiction over this case by virture of the federal questions involved, and the preexisting jurisdiction in equity in the original case no. 76 Civ. 3208 (JMC) and the 1st, 7th and 14th amendments to the Constitution of the United States, and the

jurisdiction of 262 of the Judicial Code Title 28. The complaint was filed against Attorney Batra charging breach of agreement, neglect, misrepresentation, extortion, untrue and slanderous statements, conspiracy, fraud and deception. He refused to file a private bill in Congress of the United States for redress, to correct the wrong done to me by the Government, S.B.A., and the District Court in N.Y. in Case No. 76 Civ. 3208 (JMC). Instead he's taken my complete case file, manuscript, inventions -- and is conspiring with the Government and the Courts to use for financial gain and to destroy me and mt case. He has researched my inventions and found them all patable. The Court refused to prosecute Batra because they can't prosecute him without exposing their wrong doing, the suppression and persecution against me for 28 years.

The Hon. Chief Judge James L. Oakes for the Second Circuit sat in this proceeding against Batra, No. 91-9170 and was one of the Judges sitting in the proceedings against the S.B.A. in No. 76 Civ. 3208 (JMC). Attorney Batra was retained to represent the plaintiff in a bill before Congress. Batra and Chief Judge Oakes have a personal bias, and prejudice because they have a personal knowledge of the facts and issues and the evidence presented in this Case.

Does the Federal and Constitutional questions presented in the original case raises this important question? Are blacks excluded from participating in the economic structure of our country? And where pursuant to the economic opportunity act of 1964, the Small Business Administration, by the direction of Congress had as its primary goal the preservation of free, competitive enterprise in order to strengthen the nations economy, the answer rests on this case. Did the Small Business Administration violate that Act? I want an answer to this question, because that is what this case is all about. Am I free

to choose my own destiny in life, to provide for my own livelihood in life, to participate in the economic structure of our country, if I desire. Was I free to participate in our free competitive enterprise system as a Black Citizen of the United States, under the provisions of the Economic Opportunity Act of 1965, or have my constitutional rights been violated? Did they violate the Constitutionality of that Act?

Appellant contends the "Blacks", poor and minorities would have been able to keep America's working under the provisions of the Economic Opportunity Act of 1964. We could produce on completive basis with the foreign produces, because we are not interested in big profits. We want to work, to keep our dignity and self respect, we want to earn our way instead of excepting government's handouts. I will not be forced to accept the social gimmicks when I have the abilities and skills to earn my own and be an asset to others. I demand my right to equal protection and opportunities under the laws. I had an established business, employing 20 people, when the government intentionally and purposely destroy my business and the courts have condoned and covered it up for 16 years.

Did the Government and the Court took away my right to protect my right to protect my business, denied me due process of the law to protect my business? This Case has genuine issues of material fact to be tried and was never adjudicated on the merits because of conspiracy, fraud, and discrimination practice against me and foreclosed adjudication on my Case in the Courts.

OPINIONS BELOW

U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 10th day of April, one thousand nine hundred and ninety-two.

Present:

Hon. James L. Oakes,
Chief Judge,
Hon. John M. Walker,
Circuit Judge
Hon. Fred I. Parker
District Judge.*

Venola Walton,
Plaintiff-Appellant,
v. No. 91-9170
Ravi Batra,
Defendant-Appellee.

ORDER

Venola Walton, pro se, appeals from orders of the United States District Court for the Southern District of New York, Charles S. Haight, Jr., Judge, dismissing, without prejudice, her complaint for lack of subject matter jurisdiction and denying her motion for reargument. For the reasons stated below, we affirm.

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*Chief Judge, United States District Court for the District of Vermont, sitting by designation.

Dkt. No. 91-9170

Walton hired Batra to review the record of her earlier suit against the Small Business Administration ("SBA") and to file a private bill before Congress. Claiming misrepresentation and fraud, Walton seeks redress from her former attorney. As bases of subject matter jurisdiction, Walton invokes, among others, a violation of her constitutional right to due process, the First Amendment, and preexisting jurisdiction in equity" from the earlier suit against the SBA.

All three grounds fail to provide a basis for federal question jurisdiction.(Because Batra's alleged conduct cannot be construed as constituting state action, neither the Due Process Clauses nor the First Amendment provides a basis for subject matter jurisdiction.) Walton's earlier suit against the SBA is equally unavailing for jurisdictional purposes. The earlier suit, because it is no longer pending in the district court, cannot serve as the basis for supplemental jurisdiction over a related claim. See 28 U.S.C.A. 1367 (Supp. 1991). Nor can Walton rely on jurisdiction based on diversity of citizenship: both the defendant and Walton are domiciled in New York.

Because we are unable to discern any other viable basis for federal jurisdiction, we affirm the district court's dismissal of Walton's suit as well as the denial of her motion for reargument.

We note that the dismissal for lack of subject matter jurisdiction determines only that her claims may not be heard in federal court. Because the dismissal is without prejudice, Walton retains the right to institute proceedings against Batra in state court. Although the federal courts are unable to reach the merits of Walton's case, we are troubled by her allegations. Batra accepted a $5,000 retainer to review the case with an eye to introducing a private bill in Congress. Subsequently, Batra accepted a $5,000 retainer to

review the case with an eye sent Walton a bill for an additional $29,000 for time spent reviewing the case.

Batra, thus, billed Walton a total of $34,000 to review a case that had been dismissed twenty years before for being untimely. Furthermore, Batra estimated that the introduction of a private congressional bill would cost Walton an additional $460,000. *Walton claims that Batra failed to engage in more than a cursory review of her case, he charged her $5,000 for services worth far less, and he billed for additional services which he failed to perform.

The facts before us suggest that Walton, instead of receiving advice and aid in her quest for redress, was preyed upon by her attorney. See Matter of Dowsey, 137 A.D.2d 203, 529 N.Y.S.2d 13 (1988). Walton's allegations indicate the need for review of Batra's prior disciplinary proceedings by the New York Supreme Court, Appellate Division as well as further investigation of this matter by the New York State Bar Association and the Departmental Disciplinary Committee of the New York Supreme Court.

It is hereby Ordered, Adjudged, and Decreed that the orders of the district court be and they hereby are affirmed.

JAMES L. OAKES, Chief Judge

JOHN M. WALKER, Circuit Judge

FRED I. PARKER, District Judge

N.B. THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND SHOULD NOT BE CITED OR OTHERWISE RELIED UPON IN UNRELATED CASES BEFORE THIS OR ANY OTHER COURT.

JURISDICTION

STATUTES INVOLVED

1 This court has jurisdiction over this case on the basis of the federal question it presents and the preexisting jurisdiction in equity, It also has jurisdiction under the 1st, 7th, and 14th amendments to the Constitution of the United States. The Federal Civil Rights Act (42 USC 1985) Chapter 7 The Economic Opportunity Act of 1964. The Federal Tort Claims Act Section 413. In 15 USC 701-37 provides: Judicial review will not be cut off unless clear and 125 USC 701-37 statute precluding review generally Federal rules of civil procedure: Rule 38, 56 581 the statute. and rule 6" (b) and 6 of subdivision (b) were all violated by the United States District Court of New York and the offending agency.

2 Section 262 of the Judicial Code 28 U.S.C. 377, provides that the Supreme Court. Circuit Courts of Appeals and the District Courts "shall have power to issue all writs not specifically provided for by statute. which may be necessary for the exercise if their respective jurisdiction and agreeable to the usages and principles of law" under 262 of the Judicial Code The Courts could have and still can correct the wrongs done to me.

This is a civil action by the petitioner to set aside a final judgment in this governmental action. Seeks a redress for violations of constitutionally guaranteed rights. The jurisdiction of this court is invoked under 28 U.S.C.A. 1254, the Federal Tory Claims Act. Title 4, Sec. 410-411, the Federal Civil Rights Act, ...

Chapter 7 (42 U.S.C. 1985). One important constitutional question is whether plaintiff was unlawfully discriminated against, denied an Economic Opportunity loan to improve and expand her business by the S.B.A. and tortiously interfered with plaintiff's business and business contracts, which prevented her from economic growth.

This suit involves the Economic Opportunity Act of 1964. And petitioner invokes that act, Rules 56, 60 (b) and (6) of subdivision (b) and 38, Federal Rules of Civil Procedure. Also the 1st, 7th, and 14th Amendments to the Constitution of the United States for violation of constitutional rights.

BEST A

STATEMENT OF THE CASE

The question is substantial because I am a productive citizen. I was producing, I was contributing to the economic growth of our country. I was giving jobs to people and had a job myself.

I was unlawfully cut off, denied the right to participate in our free enterprise system, because my skin is black.

My case raises this important question. Are blacks excluded from participating in the economic structure of our country? and where pursuant to the economic opportunity act of 1964, the Small Business Administration, by the direction of Congress had as its primary goal the preservation of free, competitive enterprise in order to strengthen the nations economy the answer rests on this case. Did the Small Business Administration violate that Act? I want an answer to this question, because that is what this case is all about. Am I free to choose my own dentiny in life, to provide for my own livelihoods in life, to participate in the economic structure of our country, if I desire. Was I free to participate in our free competitively enterprise system as a Black citizen of the United States under the provisions of the Economic Opportunity Act of 1964, or have my constitutional rights be violated?

STATEMENT OF THE QUESTION IN CASE N0. 78-6017

The United States Court of Appeals for the Second Circuit of New York, did not exercise its jurisdictional power and grant relief where the facts were admitted and where a trial of the facts was necessary to protect my right to Due Process of the law, to protect my right to recover the compensatory damages I am entitled to by fact and by law in Case No. 76 Civ. 3208 (JMC).

AILABLE COPY

The U.S. District Court for the District of Columbia violated my Constitutional Guaranteed rights and the violations of constitutional laws. Congress failed its responsibility, and I was arrested falsely.

This is a false arrest case 89-0737 JGP, filed in the court of redress, dismissed on a clear default by the government. And, I respectfully ask this court to order that this case be reopen and properly settled in an ethical manner immediately.

This court should reopen my case and grant equitable relief because this court conspired with the Government to avoid going to trial to argue on the issues. They perverted my case and purposely allowed the default to avoid averring, and deprived me of the damages prayed for in my complaint.

The government did not attempt to answer the complaint, they couldn't overcome the burden of the "genuine issues' of material facts to be tried. This case is about the obstruction of my business , federal and public questions are at issue. The public's interest is at stake. This is a public matter... The Public will benefit from the settlement of this case. Money will be made available to strengthen America's economy money to create jobs here at home and make America strong again.

My case should not have been dismissed August 31, 1989 after the Governments' clear default had been entered, and a motion for judgment by default had been filed. If the court did not want to grant judgment by default, this case should have been set for trial and order the defendants to answer the summons and complaints.

Plaintiff contends that Federal Rule 56 holds in every instance that the records must be factually adequate that there is no genuine

issues of material fact to be tried for the granting of summary judgment. the United States District Court in New York, Case No. 76 Civ. 3208 (JMC) knowingly and purposely awarded the offending agency, Small Business Administration a final judgment against me and foreclosed adjudication of my case in the Courts, and all the other Courts have since condoned and covered up the wrong doings for to years. These are factual basis and legal basis to reopen this case.

Defendants would have this Court to believe that I am trying to relitigate my case, that is far from truth. This Case was never tried in a Court of law or gone to trial. The Collateral Estoppel nor Res Judicato applies to this case. This Case was never litigated in a Court of law. And the Courts should not honor the first court judgment and decision when fraud has been perpetrated upon the court. The saving clause enables the District Courts to grant relief in these kind of cases.

STATEMENT OF THE GROUNDS WHICH ESTABLISH THE BASIS FOR FEDERAL QUESTION JURISDICTION

PURSUANT, TO RULE 40, FED. RULES OF APPELLATE PROCEDURE

Chief Judge Oakes has a personal bias and prejudice in this proceedings. He knew the genuine acts and issues it presents because he affirmed in the original case 76- Civ. ,3208 and should not have set in this appeal.

Hon. Chief Judge James L. Oakes as one of the Judges sitting in the original appeal of 76 Civ. 3208 (JMC) from the district court in New York, where they engaged in conspiracy, fraud and discriminatory practice and awarded this final judgment against me and foreclosed adjudication on my case in the courts, and there were genuine issues of material fact to be tried. Judge Oakes affirmed that judgment as a circuit judge of this court, in case No. 78-6017.

Chief Judge Oakes should not have allowed himself to sit on this proceedings against Batra in case no. 91-9170. He has a personal bias and prejudice because of his personal knowledge of the acts and evidence presented in the case and participated or wrote the opinion, order, and that must render this courts order null and void and grant the Appellant the relief prayed for in both cases: 76— Civ. 3208 (JMC) 91-9170.

REASON FOR GRANTING THE WRIT

PURSUANT TO RULE 40 FED. RULES OF APPELLANT PROCEDURE

Chief Judge Oakes had a personal bias and prejudice in this proceedings. He knew the genuine facts and issues it presents because he affirmed in the original case 76 Civ. 3208 and should not have set in this appeal.

Hon. Chief Judge James L. Oakes was one of the Judges sitting in the original appeal of 76 Civ. 3208 (JMC) from the district court in New York where they engaged in conspiracy. fraud and discriminatory practice and awarded this final judgment against me and foreclosed adjudication on my case in the courts, and there were genuine issues of material fact to be tried. Judge Oakes affirmed that judgment as a circuit judge of this court in case no. 78-6017.

Chief Judge Oakes allowed himself to sit on this proceedings against Batra in case no. 91-9170, He has a personal bias and prejudice in that his personal knowledge of the facts and evidence presented in the case and participated in or wrote the opinion order, and that must render this courts order mull and void and grant the Appellant the relief prayed for in both cases 76 Civ. 3208 (JMC) and 91-9170.

The government failed to protect my rights. The defendant was advised to use several laws, rules, and statues to prevent my case from being heard and, if heard, the court would be precluded from granting injunctive relief. The Small Business Administration is engage in a conspiracy to wrongfully and unjustly dismiss my case and caused me severe economic and social injustice.

I was denied my federal and constitutional right to a trial by jury. I have a right to be heard, Due process of the law.

The U.S. District Court final judgment and order foreclosed the adjudication of my case by one tribune on the facts and issues involved.

This judgment and order foreclosed the adjudication of rights intrusted to the jurisdiction of a tribunal.

In circumstances where the courts have no judicial power to grant relief, Redress, to do what it is suppose to do, and when its action is not mere error but usurpation of power the situation fall under the allowance use of 262 of the Judicial Guide 28 U.S.C 377. Congress must proceed to correct the wrong doings and grant equitable relief, redress to the violated. That demands Congress to take responsibility for the wrong doings. Congress fail to act responsibly. The Defendant, Small Business Administration 's wron g doings cannot be condoned' for any reasons. The issues in this case are of great public importance and concern. They are tampering with the Administration of Justice, in such a way it involves far more than an injury to me, a single litigant. It is a wrong against the institutions which are set up to protect and safeguard the public. The public's welfare demands that officers and agencies of public justice have high integrity and honest dealingswith all citizens.

It appears to me that the defendant and the judge have so far departed from the standards of conduct, as to have perpetrated fraud upon the courts, in handling my case. This Civil Suit have invoked the jurisdiction of all the appropriate Federal Courts and the Supreme Court of the United States October Term, 1978, No. 78-809. I filed a direct appeal a jurisdictional statement with attached appendices jurisdiction of the Supreme Court to review the lower court's decision by direct appeal is conferred by Title 28 - U.S.C. 1252 and in the Supreme Court again Oct. Term 1983. No. 83-709 and jurisdiction was involved under 28 - U.S.C.A. 1254.

The question is substantial because I am a productive citizen. I was producing, I was contributing to the economic growth of our country. I was giving jobs to people and had a job for myself.

I was unlawfully cut off, denied the right to participate in our free enterprise system, because my skin is black.

My case raises this important question. Are blacks excluded from participating in the economic structure of our country? And where pursuant to the economic opportunity act of 1964, the Small Business Administration, by the direction of Congress had as its primary goal the preservation of free, competitive. enterprise in order to strengthen the nations economy, the answer rests on this case. Did the Small Business Administration violate that Act? I want an answer to this question, because that. is what this case isall about. Am I free to choose my own dentiny in life, to provide for my own livelihood in life, to participate in the economic structure of our country, if I desire. Was I free to participate in our free competitive enterprise system as a Black citizen of the United States under the provisions of the Economic Opportunity Act of 1964, or have my constitutional rights been violated?

STATEMENT OF THE QUESTION IN CASE N0. 78-6017

The United States Court of Appeals for the Second Circuit of New York, did not exercise its jurisdictional power and grant relief where the facts were admitted and where a trial of the facts was necessary.

And in the latter situation, property act as a trier of the facts and judge of the laws. The court upheld the District Court's decision and final judgment. condoned the defendant Small Business Administration wrong doings.

INTERVENING CIRCUMSTANCES

These are some intervening circumstances with substantial controlling effects. The trial Court's Judgement and order fore-

closed adjudication by one tribune of the facts and issues involved. This judgment and order foreclosed the adjudication of rights intrusted to the jurisduction of a tribunal. The SBA filed their Answer and Counter Claims as the law requires, but after the defendant discovered the validity of this case, the U.S. District Court allowed the SBA to amend its Answer and Counter Claim to assert the Statue of Limitations as am affirmative defense and later allowed the defendant's Motion for Summary Judgment on the basis of limita-tion, 7 months after the first Answer. That Motion should have been denied; Federal Rule 56 holds in every instance that the record must be factually adequate, that there is no genuine issue of material fact, for the granting of Summary Judgement. That motion suppressed the case and caused great injury to me and the case. Relief cannot be obtained through any other court. Rule 56, page 738, states that while a defendant would be entitled to summary judgement on the basis of one good affirmative defense that does not involve a triable issue of fact, summary judgement must be denied where there is a triable issue of fact in connection with each affirmative defense upon which the defendant's motion is predicated. Because the wrong doings was by a Federal Agency this case was brought under the Federal Tort Claims Act, and is governed and protected by the provisions there of. And is governed by Federal Rule 56, the Federal Rule of Civil Procedure. The equitable questions are: Did the Trial Court conduct the case as to the contritutionality of this act, and complies with the provisions there of and to the provisions of Rule 56? Or did the court violate federal and constitutional laws?

There has never been no adversary trial or decision of the facts and issues. The plaintiff was prevented from exhibiting fully my case by fraud and deception practiced on me by the defendants, Small Business Administration and the courts and prevented this case from ever going to trial for a real contest of the facts and issues involved and denied me the right to protect my property to restore my livelihood.

EQUITABLE RELIEF

This case is equitable cognizance. The district court's judgement and order precluded equitable relief in the lower courts. The decision shows not only the dubious rulings upon strictly jurisdictional matters but as decisive and conclusive adjudication upon the merits and deprive me of equal protection of the laws. This petition presents questions related closly to the issues, to determine relief by the preexisting jurisdiction in equality. The District Court's judgment, if examined by this court, would find that the petitioner is entitled to an equitable relief as to the fact and as to the law. The U.S. District Court Southern District of N.Y. denied my motion for relief from Final Judgement as being untimely filed. Federal Rule 60(b) and 6 of subdivision (b) does not limit the power of the Court from granting relief when fraud has been perpetrated upon the Court. The lower Court's refused to exercise their power of equitable intervention.

CONCLUSION

The government has destroyed the most productive years of my life. And now, I am a senior, the government and the court are adding more and more pressure and hardship as to destroy me completely.. They are trying to force me on welfare, to reduce me to a "no body", or just have me go away.

I will not go away. I will not be forced on welfare. I may be forced to live homeless, as thousands of citizens have been forced to do, since our economy cannot afford a job for them, and have refused to allow me to contribute to this great need because my skin is ''Black'.

It is because the Plaintiff is a productive citizen and still has much to contribute to society. I Demand the right to do so. Therefore, the petitioner pray a writ of certiorari will issue and this honorable Court will immediately settle this case in a equitable manner, and grant substantive justice for 28 years of deprivation and persecution by the Government and the Courts.

Respectfully Submitted,

Venola Walton
Appelant-Petitioner

539 W. 148 St. Apt. 6
New York, N.Y. 10031
(212) 690-5198

Dated August 19,1992

Petitioner
Representing herself.

U.S. COURT OF APPEALS
FOR THE SECOND CIRCUIT

Appears in Opinions Below, Page 4.

UNITED STATES COURT OF APPEALS
FOR THE SECOND CURCUIT

At a Stated Term of the United States Court of Appeals, in and for the Second Circuit held at the United States Court House, in the City of New York,on the twenty-ninth day of August , one thousand nine hundred and seventy-eight.

Present: HON. WILLIAM H. MULLIGAN

HON. JAMES L. OAKES

HON. MURRAY I. GURFEIN

Curcuit Judges.

VENOLA WALTON,
Plaintiff-Appellant
V.
THE SMALL BUSINESS ADMINISTRATION,
Defendant-Appellee.

78-6017

A petition for a rehearing having been filed herein by counsel for the Appellant, Venola Walton.

Upon consideration thereof, it is ordered that said petition be and it hereby is DENIED.

DANIEL FUSARO, Clerk.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VENOLA WALTON
Plaintiff,

-against-

RAVI BATRA,
Defendant.

90 Civ. 7105 (CSH)

MEMORANDUM OPINION
AND ORDER

HAIGHT, District Judge:

Having reviewed the file in this case, the Court is constrained to dismiss plaintiff's complaint for lack of federal subject matter jurisdiction. Plaintiff correctly observes that defendant's motion to dismiss, on the ground, inter alia, of lack of subject matter jurisdiction, was not timely filed. Defendant also failed to file his motion with the Clerk of the Court and have it docketed, apparently limiting his efforts to delivering the motion papers to Chambers.

Notwithstanding these omissions on the part of defendant, the Court is obligated to raise the question of subject matter jurisdiction sua sponte, and to dismiss the complaint if it is clear that no viable basis for federal jurisdiction appears.

That is the circumstance in the case at bar. Jurisdiction based upon diversity of citizenship under 28 U.S.C. 1332 is not present, since plaintiff fails to allege that she and defendant are residents of different states, and the complaint gives New York addresses for both parties. Defendant's address appears to be a

business address, but he states in his motion papers (which I must consider for this purpose) that he is a citizen of New York, and there is no reason to believe otherwise.

While plaintiff refers to other statutes and her earlier case in this Court, 76 Civ. 3208 (JMC), those references do not give rise to a basis for federal subject matter jurisdiction over the present case, which is in substance a complaint by a former client against an attorney. Accordingly the Clerk of the Court is directed to dismiss the complaint without prejudice for lack of subject matter jurisdiction.

It is SO ORDERED.

Dated: New York, New York
June 26, 1991

CHARLES S. HAIGHT, JR.
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

VENOLA WALTON,
Plaintiff,

-against-

76 Civ. 3208
(JMC)
Pro se

THE SMALL BUSINESS ADMINISTRATION,
Defendant

MEMORANDOM DECISION
CANNELLA, D.J.:

Motion for summary judgment, Fed. R. Civ. P.56 (b), is granted as to the first claim in the complaint. Motion to dismiss for lack of subject matter jurisdiction, Fed. R. Civ. P. 12 (b) (1), is granted as to the second claim. The complaint is dismissed .

Plaintiff, Venola Walton, a black woman, brought this suit against the Small Business Administration ["SBA"] claiming that the agency's wrongful refusal to loan her money in 1965 and 1975 caused the failure of her dressmaking business. Specifically, the compliant alleges that such loans were denied plaintiff on the basis of her sex and race and that the defendant placed false documents in her SBA file.

Defendant moves to dismiss the complaint for lack of subject matter jurisdiction and, alternatively, for summary judgement. As to the first claim, the Court finds, on the basis of the affidavits and supported papers, that there are no material facts in issue and that

defendant is entitled to judgment as a matter of law. As to the second allegation, the Court finds it is jurisdictionally defective because plaintiff failed to file an administrative claim. 28 U.S.C. 2675(a). The Court further finds that all claims arising from plaintiff's 1965 loan applications are time-barred. 28 U.S.C. 2401(b).

Plaintiff's discrimination claim consists merely of the fact that she is a black woman and that, 1/ in November 1964 plaintiff was granted an SBA loan in the amount of $6,000. In November 1955 plaintiff defaulted in her loan payments, and the Internal Revenue Service closed plaintiff's business for non- payment of federal taxes. Plaintiff contests the inadequacy of the $6,000 SBA loan and the agency's failure to lend her additional monies when she applied for them.

On two occasions, the SBA denied her a loan. Defendant's moving papers set out the circumstances under which these loan applications were denied, and it appears to the Court that the agency's decisions were substantially supported. See 5 U.S.C. 706. In response to the Government's papers, plaintiff has not advanced even one fact suggestive of discrimination. In such a case, the awarding of summary judgment is appropriate. E.g., Donnelly v. Guion, 467 F.2d 290, 293 (2d Cir. 1972); Appelgate v. Top Assocs., Inc., 425 F.2d 92, 96 (2d Cir. 1970); see Fed. R. Civ. P. 56(e).

1Plaintiff's second claim, that the SBA placed false and damaging documents in her file, must be dismissed for lack of subject matter jurisdiction due to plaintiff's failure to file an administrative claim. Fed. R. Civ. P. 12(b)(1); 28 U.S.C. 267(a). Additionally, insofar as the claim is one for defamation, the doctrine of sovereign immunity would act as a bar to suit, 28 U.S.C. 2680(h), and the Court finds the claim to be plainly frivolous.

Plaintiff, like so many other persons, tried to make a go of her own business, and failed. For a variety of reasons, none of which involved plaintiff's race or sex, the SBA decided in its discretion that its funds should not be used to help fund her enterprise. In the absence of a showing that the SBA's decision rested on improper criteria, its decision cannot be disturbed.

For the above reasons, defendant's motions are granted and the complaint is dismissed.

The foregoing constitute the findings of fact and conclusions of law of the Court pursuant to Fed. R. Civ. P. 52(a).

SO ORDERED.

Dated: New York, N.Y.
January 17, 1978.

JOHN M. CANNELLA
U.S.D.J.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

VENOLA WALTON,
Plaintiff,
v.
U.S. GOVERNMENT, et al.,
Defendant.

Civil Action No 89-737

This case is before the Court on defendants' motions to vacate the default and for dismissal of the plaintiff's claims. Plaintiff opposes these motions and seeks judgment in her favor. After careful consideration of the motions, the opposition, and the record in this case, the Court concludes for the reasons set forth below that defendants' motions must be granted in part.

Plaintiff filed this lawsuit on March 21, 1989. She contends that this Court has jurisdiction pursuant to the First, Seventh, and Fourteenth Amendments to the Constitution as well as the Federal Civil Right Act, 42 U.S.C. 19852. the Economic

1 Defendants filed their motion to dismiss as an exhibit to the motion to vacate the default. the Court grants leave for filing of this motion.

2 Plaintiff fails to meet the heightened pleading standard of this Circuit demanding specificity in civil rights complaints. Hobson v. Wilson, 737 F.2d 1,30 (D.C. Cir. 1984), cert. denied, 470 U.S. 1084, 105 S.Ct. 1843 (1985).

Opportunity Act of 1964, the Federal Tort Claims Act (FTCA), 15 U.S.C. 7013, and the Fed. R. Civ. P. 38, 56, 60(b)(6). The complaint alleged that defendant Small business administration and the United States District Court for the Southern district of New York violated her constitutional rights in proceeding before that court, therefore she contends that relief can only be obtained through congress. From the complaint, it appear that this proceeding dates back to 1976. Additionally, she states that on April 13, 1988, while protesting on the steps of Capitol, she was falsely arrested. On the basis of these claims, she seeks redress from Congress in the amount of $14 million dollars.

On April 11, 1989, Assistant United States Attorney Molly D. Current entered her appearance as counsel for defendants in this case. Subsequently, Ms. Current sought an extension of time to respond to the complaint. The Court granted this request and defendants were required to file an answer or otherwise respond to the complaint by June 6, 1989. defendant failed to file a timely response and the Clerk entered default in this case on July 20, 1989. On that same date, plaintiff filed a motion for judgment in this case.

On August 3, 1989, defendants filed a motion to vacate the default and a motion to dismiss for lack of jurisdiction. The motion to vacate the default relies on the provision of Fed. R. Civ. P. 55(e). Additionally, it is argued that default is

3 The relevance of this statute cited by plaintiff is not evident from either the complaint, the statute, or the record in this case.

generally disfavored and in the absence of any demonstration of real prejudice to the party seeking default, such requests should be denied. Perlov v. G.D. Searle& Co., 621 F.Supp. 1146,1147 (D. Md. 1985). Defendant argue that even though its' motion was untimely, plaintiff cannot overcome this burden. Plaintiff opposes the motion arguing that he has established her claims, however the does not address the legal arguments of the defendants. After considering the relevant facts, the Court concludes that the motion to vacate must be granted.4

With respect to the motion to dismiss, defendants' state that plaintiff has failed to exhaust her administrative remedies as required by the FTCA, 28 U.S.C. 2671, et seq. Defendants argue that the only possible basis for relief in tort against the United States and Congress is the FTCA. As a prerequisite for filing a civil tort action, the FTCA unequivocally requires that the claimant first file an administrative claim with the agency from which the seeks relief. 28 U.S.C. 2675(a). This provision is a statutory precondition for filing suit. GAF Corp. v. United States, 818 F.2d 901,919 (D.C.Cir.1987).

To the extent that plaintiff seeks review or reversal of proceedings in United States District Court for the Southern District of New York, this Court is without jurisdiction to consider those claims. Even assuming such claims are timely, theappropriate place to pursue those claims is the federal appellate

4 The Court's conclusions with respect to the motion to dismiss are incorporated with the decision to grant the motion.

court in New York.With respect to plaintiff's claim that she was falsely arrested, this claim falls squarely under the FTCA.5 The Court must dismiss since nothing in the record indicates that plaintiff has either filed or attempted to file an administrative tort claim with the United States Capitol Police. The FTCA requires that Ms. Walton file with the agency: "(1) a written statement sufficiently describing the injury to enable the agency to begin its own investigation, and (2) a sum-certain damages claim. GAF Corp., 818 F.2d at 919-20 (this requirement enables the agency to determine whether settlement or negotiations to that end are desirable). Accordingly, the Court must dismiss this case for lack of jurisdiction as a matter of law.6

5 The relevant portion of the FTCA at 28 U.S.C. 2680 atsubsection (h) states: "The provisions of this chapter and section 1346(b) of this title shall not apply to— (h) Any claim arising out of assault, battery, false imprisonment, false arrest, malicious prosecution, abuse of process, libel, slander,misrepresentation, deceit, or interference with contract right: Provided, That, with regard to acts or omissions of investigative or law enforcement officers of the United States Government, the provisions of this chapter and section 1346(b) of this title shall apply to any claim arising, on or after the date of the enactment of this proviso, out of assault, battery, false imprisonment, false arrest, abuse of process, or malicious prosecution. For the purpose of his subsection, "investigative or law enforcement officer" means any officer of the United States who is empowered by law to execute searches, to seize evidence, or to make arrest for violations of Federal law. 2U.S.C. 2680(h) (Supp. 1989).

6 Although the Court recognizes that plaintiff is acting pro se, defendants are entitled to judgment as a matter of law on the jurisdictional issue.

An appropriate Order accompanies this Memorandum.

Date AUG 31,1989

JOHN GARRETT PENN
United States District Judge

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 91-5351 **September Term, 1991**

89CV00737
United States Court of Appeals
For the District of Columbia Circuit
FILED AUG 03, 1992

Venola Walton,
Appellant

CONSTANCE L. DUPRE,
CLERK

U.S. Government, Congress of the United States

BEFORE: Wald, Silberman and Randolph, Circuit Judges

ORDER

Upon consideration of the motion for summary affirmance, the opposition thereto, the reply, the lodged surreply, and the motion for leave to file surreply, it is

ORDERED that the motion for leave to file surreply be granted. The Clerk is directed to file the lodged document. It is

FURTHER ORDERED that the motion for summary affirmance be granted. Appellant's September 26, 1991 notice of appeal was timely only as to the district court's order filed August 281991, denying her latest motion to reopen. Consequently, only that order, and not the district court's August 31, 1989 order dismissing her action, is before this court. See Browder v. Director. Dep't of Corrections, 434 U.S. 257, 263 n.7 (1978).The court did not abuse its discretion in denying the motion to reopen. See id.; Twelve John Does v. District of Columbia, 841 F.2d 1133, 1138 (D.C. Cir. 1988). Appellant's motion to reopen offered no grounds justifying relief from the district court's order dismissing her complaint for lack of jurisdiction. The merits of the parties' positions are so clear as to justify summary action. See Taxpayers Watchdog, Inc. v. Stanley, 819 F.2d 294, 297 (D.C. Cir. 1987) (per curiam); Walker v. Washington, 627 F.2d 541, 545 (D.C. Cir.) (per curiam), cert. denied, 449 U.S. 994 (1980).

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No 91-5351 **September Term, 1991**

The Clerk is directed to withhold issuance of the mandate herein until seven days after disposition of any timely petition for rehearing. See D.C. Cir. Rule 15.

Per Curiam

Federal Rule 56

Summary judgement should have been denied. Rule S6, page 738, states while a defendant would be entitled to summary judgment on the basis of one good affirmative defense that does not involve a triable issue of fact, sum mary judgment must be denied where there is a triable issue of fact in connection with each affirmative defense upon which the defendant's motion is predicated. The statute of limitation cannot apply in this suit. Prior to filing this suit in the U.S. District Court in New York, plaintiff filed a complaint with the Small Business Administrator, Mr. Thomas S. Kleppe on August 11, 1975. They investigated, and sent me their findings. I informed them that their findings had many false statements and had omitted many facts that needed to be brought out for justice to be done. They then requested that I send them what facts I alleged as false and what proof I had of such. I refused to send them my proof. I requested a hearing to present it in person. The Administrator's office ignored my request, after several letters were transmitted between us. I then went to the Civil Liberty Union. I told them what had transpired theretofore, and told them I would not send them any proof unless I am able to go into the Small Business Administration office and review my file. It was through their office than an appointment was made for me to review my file. I went to the SBA'S office and reviewed that informa tion and was given copies of it. Washington's SBA office closed my case after the appointment was made for me to review my file. I prepared the information the SBA in Washington had requested and mailed it to them and re quested that they reopen my case. They refused to reopen my case, stating that they found no wrongdoings by the SBA in New York. The question is substantial because this was the information the SBA in Washington had sent me in their findings, and gave as the reason my application was denied and my business was closed.

ATTENTION TO ALL CITIZENS AND GENERAL PUBLIC.

I AM HERE IN GOOD FAITH AND I DEMAND A RESPONSE FROM THE CONGRESS OF THE UNITED STATES TO MY PETITION FOR REDRESS, FOR VIOLATIONS OF CONSTITUTIONAL LAWS, AND THE VIOLATIONS OF MY CON STITUTIONAL GUARANTEED RIGHTS. IN THIS CIVIL SUIT IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, CASE NO. 76 - CIV 3208 (JMC).

VENOLA WALTON, *PLAINTIFF*
-V-
SMALL BUSINESS ADMINISTRATION, *DEFENDANT*

THIS CASE RAISES QUESTIONS OF GRAVE PUBLIC IMPORTANCE, AND IS REVIEWABLE BY CONGRESS UNDER THE JURISDICTION OF 262 OF THE JUDICIAL CODE TITLE 28 U.S.C. 377.

DECISIONS WHICH CONGRESS, IN THE ABSENCE OF OTHER PROVISIONS FOR APPEAL, CONTEMPLATED WOULD BE REVIEWED ON APPEAL FROM FINAL JUDGEMENT. WHEN NOT, THE QUESTION NOW INVOLVES THE DISTRICT COURT EQUITY JURISDICTION, AND AN ASSERTED CONFLICT BETWEEN ITS JURISDICTION AND THAT OF AN AGENCY OF CONGRESS.

IN THE CIRCUMSTANCES OF MY CASE, THE COURTS HAVE NO JUDICIAL POWER TO GRANT ME RELIEF, REDRESS, TO DO WHAT IT IS SUPPOSE TO DO, AND WHEN ITS ACTION IS NOT MERE ERROR BUT USURPATION OF POWER THE SITUATION FALL UNDER THE ALLOWABLE USE OF 262 OF THE JUDICIAL CODE 28 U.S.C. 377. CONGRESS MUST PROCEED TO CORRECT THE WRONG DOINGS AND GRANT EQUITABLE RELIEF, REDRESS TO THE VIOLATED.

BECAUSE THIS CASE GREW OUT OF THE ECONOMIC OPPORTUNITY ACT OF 1964, I DECREE TO FURTHER THE CAUSE OF THAT ACT. IT WILL BE GOOD FOR AMERICA'S ECONOMY, TO REVIVE THE INTENT AND PURPOSE OF THAT ACT AND MAKE A HEALHTY ECONOMY AGAIN. PUT AMERICA BACK TO WORK. I DECREE TO WORK TOWARD THAT GOAL WITH ALL MY MIGHT. WON'T YOU PLEASE JOIN ME. LET US MAKE JOBS HERE AT HOME. IN AMERICA. I PRAY THAT ALL CITIZENS WILL JOIN ME IN THIS FIGHT FOR ECONOMIC AND SOCIAL JUSTICE FOR ALL CITIZENS. EQUAL JUSTICE UNDER THE LAWS.

THANK YOU FOR YOUR SUPPORT.